

New Hampshire Commission for Human Rights



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January 28, 2010

Chief Executive Officer
Administrative Office of the Courts
State of New Hampshire
2 Charles Doe Drive
Concord NH 03301

Re: Walker v. Administrative Office of the Courts
EDS(R) 0077-10 16D-2010-00083

Dear Sir or Madam:

The enclosed Charge of discrimination has been received and docketed by the New Hampshire Commission for Human Rights. The Commission is the state agency granted authority by statute (RSA 354-A) to receive and investigate claims such as the enclosed.

Investigator **David Bullock** has been assigned to this case. All correspondence should be addressed to this investigator. Please submit a written response to the Charge. Any allegation in the complaint which is not denied in the answer shall be deemed admitted. This response **MUST BE VERIFIED** by the Respondent (signed and sworn, or affirmed, before a notary public or justice of the peace), and shall include at least the following:

- (a) Has the Respondent been named in the Charge by its correct legal name? If not, provide the correct name and spelling of the legal entity that owns the Respondent in your Answer to the Charge;
- (b) The name and address of Respondent and of Respondent's attorney if represented by counsel;

Please note Commission for Human Rights rules (Hum 204 and Hum 303) require approval of a request to appear *pro hac vice* before an attorney who is not a member in good standing of the New Hampshire Bar Association may appear on behalf of a client at

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the Commission. Please review the text of those rules on the Commission website, www.nh.gov/hrc, and comply with them if they apply to your situation.

- (c) For each allegation of the Charge contested by the Respondent, a general or specific denial, or a statement that the Respondent is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegation; and
- (d) Any affirmative defenses that the Respondent wishes to raise.

You may submit additional documentary evidence in support of your answer at this time. Once the verified response has been received, the assigned investigator will be in contact when additional information is required.

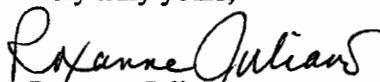
You are required to preserve any and all evidence in connection with this Charge of Discrimination including but not limited to documents such as notes, letters, applications, certificates, transcripts, disciplinary notices, witness statements, investigation reports, personnel records, email, instant messaging, voice mail messaging, dvd, cd, videotape, text messaging, any electronic media whatsoever including but not limited to hard drives, removable drives, external drives, objects, posters, magazines, postcards, cartoons, or any other thing that could possibly be probative of the allegations, charges, claims and defenses in this matter.

The Commission offers the parties voluntary mediation. A brochure describing the mediation program is enclosed. If you are interested in further information about the mediation program, please feel free to contact me.

For your information, NH RSA 354-A:19 prohibits retaliation for filing a complaint or for testifying or assisting in any proceeding under this chapter

This response is due at the Commission by March 10, 2010. Provide Complainant a copy of the response and all non-confidential materials submitted to the Commission. (If Complainant is represented by counsel, send him or her a copy of the response instead, at the address indicated below.) In your response, confirm that you have done so.

Very truly yours,


Roxanne Juliano
Assistant Director

enc.

cc: Complainant's Attorney
Rose M Culver Esq
Law Office of Rose M Culver
18 North Main Street Ste 301
Concord NH 03301

EEOC FORM 131-A (11/09)

U.S. Equal Employment Opportunity Commission

PERSON FILING CHARGE

Michele M. Walker

THIS PERSON (check one or both)

☒ Claims To Be Aggrieved☐ Is Filing on Behalf of Other(s)

EEOC CHARGE NO.

16D-2010-00083

FEPA CHARGE NO.

EDS(R) 0077-10

ADMINISTRATIVE OFFICE OF THE COURTS
State Of New Hampshire District Court
2 Charles Doe Drive
Concord, NH 03301

NOTICE OF CHARGE OF DISCRIMINATION IN JURISDICTION WHERE A FEP AGENCY WILL INITIALLY PROCESS
(See the enclosed for additional information)

THIS IS NOTICE THAT A CHARGE OF EMPLOYMENT DISCRIMINATION UNDER

☒ Title VII of the Civil Rights Act (Title VII) ☐ The Equal Pay Act (EPA) ☒ The Americans with Disabilities Act (ADA)
☐ The Age Discrimination in Employment Act (ADEA) ☐ The Genetic Information Nondiscrimination Act (GINA)

HAS BEEN RECEIVED BY

☐ The EEOC and sent for initial processing to _____
 (FEP Agency)

☒ The **New Hampshire Commission for Human Rights** and sent to EEOC for dual filing purposes.
 (FEP Agency)

While EEOC has jurisdiction (upon expiration of any deferral requirement if this is a Title VII, ADA or GINA charge) to investigate this charge, EEOC may suspend its investigation and await the issuance of the Agency's final findings and orders. These findings and orders will be given weight by EEOC in making its own determination as to whether reasonable cause exists to believe that discrimination has occurred.

You are therefore encouraged to cooperate fully with the Agency. All facts and evidence provided by you to the Agency will be considered by EEOC when it reviews the Agency's final findings and orders. In many cases EEOC will take no further action, thereby avoiding the necessity of an investigation by both the Agency and EEOC. This likelihood is increased by your active cooperation with the Agency.

As a party to the charge, you may request that EEOC review the final findings and orders of the above-named Agency. For such a request to be honored, you must notify EEOC in writing within 15 days of your receipt of the Agency's final decision and order. If the Agency terminates its proceedings without issuing a final finding and order, you will be contacted further by EEOC. Regardless of whether the Agency or EEOC processes the charge, the Recordkeeping and Non-Retaliation provisions of the statutes as explained in the enclosed information sheet apply.

For further correspondence on this matter, please use the charge number(s) shown above.

Enclosure(s): Copy of Charge

CIRCUMSTANCES OF ALLEGED DISCRIMINATION

☐ Race ☐ Color ☒ Sex ☐ Religion ☐ National Origin ☐ Age ☒ Disability ☒ Retaliation ☐ Genetic Information ☐ Other

See enclosed copy of charge of discrimination.

Date

January 26, 2010

Name / Title of Authorized Official

Spencer H. Lewis, JR,
Director

Signature

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EEOC Form 5 (11/09)

CHARGE OF DISCRIMINATION <small>This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.</small>		Charge Presented To: Agency(ies) Charge No(s): <input checked="" type="checkbox"/> FEPA EDS(R) 0077-10 <input checked="" type="checkbox"/> EEOC 16D-2010-00083	
New Hampshire Commission for Human Rights and EEOC <small>State or local Agency, if any</small>			
Name (Indicate Mr., Ms., Mrs.) Michele M. Walker		Home Phone (Incl. Area Code) [REDACTED]	Date of Birth [REDACTED]
Street Address 368 Old Franconia Rd, Bethlehem, NH 03574		City, State and ZIP Code	
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name STATE OF NEW HAMPSHIRE, DISTRICT COURT, C/O ADMINISTRATIVE OFFICE OF THE COURTS		No. Employees, Members 15-100+	Phone No. (Include Area Code) (603) 271-2521
Street Address 2 CHARLES DOE DRIVE CONCORD, NH 03301		City, State and ZIP Code	
Name <div style="text-align: center;">RECEIVED</div>		No. Employees, Members	Phone No. (Include Area Code)
Street Address <div style="text-align: center;">JAN 25 2010</div>		City, State and ZIP Code	
DISCRIMINATION BASED ON (Check all that apply) <input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input checked="" type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input checked="" type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input checked="" type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION <input checked="" type="checkbox"/> OTHER (Specify) RSA 354-A Sexual Orientation, Marital Status		DATE(S) DISCRIMINATION TOOK PLACE Earliest Latest +/- 07-07-2008 1-15-10 <input checked="" type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):			
<p>1) I, Michele Walker, am employed as the Clerk of the Littleton District Court, and was subjected to severe and/or pervasive sexual harassment in my place of my employment which created a hostile work environment. This sexually harassing behavior included comments related to homosexual and heterosexual relationships.</p> <p>2) Upon making multiple complaints to my supervisor regarding the sexually harassing behavior that had created a hostile work environment as required by Court policy, I was discouraged from bringing the nature of these incidents to light. I wanted the behavior to be stopped, but my supervisor failed to take corrective action to end the harassment and actively discouraged me from further reporting the behavior of the individuals involved. My supervisor failed to report my complaint in accordance with the Court's harassment policy.</p> <p>3) When I attempted to further report the sexual harassment in August of 2009, I was treated with hostility by the Administration. I was also retaliated against by those involved in the sexual harassment.</p> <p>4) On approximately 8/20/09, due to escalating workplace harassment, I went on medical leave. I am a qualified person with a disability. My employer was put on notice of my disability based on the information provided to them in writing from my doctor as required. Alternatively, my employer perceived me as a person with a disability.</p> <p>5) The Administrative Judge for the District Courts, Hon. Edwin Kelly, ordered me to return to work by 9/28/09. The Administrative Office of the Courts and the District Court thereafter refused to engage in the interactive process with me by not responding to numerous written and verbal inquiries concerning my leave and return to work. I have been discriminated against on the basis of my disability.</p> <p>6) On 11/20/09, I contacted my employer and requested to return to work on 12/8/09. I requested reasonable accommodations for my return. My doctor provided documentation to the Administrative Office of the Courts</p>			

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CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):

☒ FEPA

EDS(R) 0077-10

☒ EEOC

16D-2010-00083

New Hampshire Commission for Human Rights

and EEOC

State or local Agency, if any

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

to clear my return with these accommodations. My employer then denied me the right to reasonable accommodations, indicating that I did not have a disability. I was also retaliated against by my employer for making a complaint of sexual harassment when I was denied the right to return to work at this time. This in addition to the fact that I was ordered in a letter dated October 20, 2009 not to go to the Littleton Courthouse without authorization. My employer continues to refuse to engage in the interactive process with me concerning my return to work.

- 7) I have recently been certified to return to work by my doctor without accommodation. On January 15, 2010, I communicated my request to my employer to allow me to return to work based on this certification. My employer continues to refuse to engage in the interactive process with me concerning my return to work.
- 8) This claim is based upon discrimination/harassment and retaliation on the basis of disability and/or perceived disability, gender and sexual orientation (heterosexual).
- 9) The discrimination, harassment, and retaliation, which I have endured from my employer has caused me to suffer, including but not limited to, disability, severe and other emotional distress, aggravation, embarrassment, humiliation, sleeplessness at night, a feeling of anxiety, an inability to work, and lost wages and benefits.
- 10) I am making a claim for all damages allowed to me by law, including liberal compensatory and punitive damages, past and future lost wages, benefits, retirement, damages for distress, embarrassment, humiliation, aggravation, emotional distress, her mental state/diagnoses, attorney's fees, costs, and an amount to compensate me for any negative tax consequences that result from any judgment or decision.
- 11) I reserve the right to add any further acts of retaliation to this Charge, or to any ensuing litigation as same may occur.

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I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

1/25/10

Date

Michelle M. Walker

Charging Party Signature

NOTARY - When necessary for State and Local Agency Requirements

Darrin R. Brown DARRIN R. BROWN

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

Michelle M. Walker

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE

(month, day, year)

JAN 25, 2010

DARRIN R. BROWN, Notary Public

My Commission Expires April 15, 2014